

LEGAL REPRESENTATIVES OF SAMUEL TEWKSBURY.

MAY 27, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FITZGERALD, from the Committee on War Claims, submitted the following

REPORT.

[To accompany H. R. 10500.]

The Committee on War Claims, to whom was referred the bill (H. R. 10500) for the relief of the legal representatives of Samuel Tewksbury, deceased, submit the following report:

The claim is for compensation for use and occupation by the United States Government, during the late civil war, of a brick building and premises in Scranton, Pa. Claim stated at \$5,697.

Samuel Tewksbury was the owner of a brick building in the city of Scranton, Pa., in 1861-62. The building was in about the center of the business part of the city; was 50 feet by 38, three stories. The first floor was for a store; the other two stories were partitioned off into 15 or 16 rooms to be rented for business offices. Cost of the building about \$12,000, and rented from \$100 to \$150 per month.

In the month of June, 1862, Stephen N. Bradford, provost-marshal twelfth district of Pennsylvania, counties of Luzerne and Susquehanna, took possession of this building and used it for barracks for drafted and enlisted men before they were sent to the companies in the field. After some months' use by the provost-marshal the building was used and occupied by Colonel Kerrigan as barracks for his men until June, 1865.

Samuel Tewksbury never received any rent from the Government for this building while it was occupied by the United States provost-marshal and the soldiers of Colonel Kerrigan's command for the three years from June, 1862, to June, 1865.

The claimant brought a suit in November, 1867, in the court of common pleas for Luzerne County against Capt. Stephen N. Bradford for the use and occupancy of this building, and obtained a judgment in said court for \$5,697.76, which judgment has not been paid.

The proof shows that when the Government vacated the building it was in a ruinous condition. The windows, doors, floors, and partitions were broken, defaced, and injured, and the whole building was in a

foul, partially prostrate, bad, and untenable state. The repairs alone to make the said building habitable cost the sum of \$3,000, and that sum of money was actually paid by Mr. Tewksbury to make the premises tenable.

He made claim for compensation to the honorable Secretary of War on or about August, 1865, which was rejected on May 10, 1866, on the ground that "claimant must look to the officers who took the building."

The claimant, believing said rejection to be unjust, subsequently petitioned Congress for relief, and said petition was, by the Committee on War Claims, on February 25, 1892, referred to the Court of Claims for a finding of facts under the terms of the Bowman Act, and the petition was dismissed by said court for want of jurisdiction.

Your committee is of the opinion that the use and occupation of this property under such circumstances creates an obligation on the part of the Government to reimburse the owner to the full value of the service, and upon all the facts stated the estate of Samuel Tewksbury is entitled to the sum of \$5,697. The bill is therefore reported back with the recommendation that it do pass.

